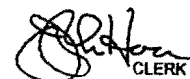


FILED

DEC 17 2012

  
CLERK

UNITED STATES DISTRICT COURT  
DISTRICT OF SOUTH DAKOTA  
SOUTHERN DIVISION

\*\*\*\*\*

ROBERT B. MONLUX,

Plaintiff,

-VS-

MICHAEL J. ASTRUE,  
Commissioner of Social Security,

Defendant.

CIV. 11-4180

ORDER

\*\*\*\*\*

This Court referred the case to United States Magistrate Judge John E. Simko for the purpose of issuing a Report and Recommendation. The Magistrate Judge has recommended that the Commissioner's denial of benefits be reversed and remanded for an immediate award of benefits pursuant to 42 U.S.C. § 405(g), sentence four.

A sentence four remand is proper when the district court makes a substantive ruling regarding the correctness of the Commissioner's decision and remands the case in accordance with such ruling. *Buckner v. Apfel*, 213 F.3d 1006, 1010 (8th Cir. 2000). Remand with instructions to award benefits is appropriate "only if the record overwhelmingly supports such a finding." *Buckner* at 1011.

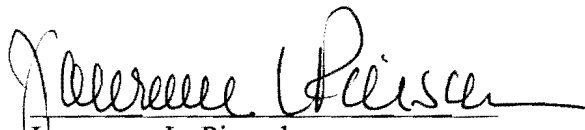
The Court has carefully reviewed the Magistrate Judge's Report and Recommendation and the record of the administrative proceedings. After having reviewed the record, the Court agrees with the Magistrate Judge's Report and Recommendation. Accordingly, it is hereby

ORDERED that:

1. The Magistrate Judge's Report and Recommendation (Doc. 16) is ADOPTED by the Court.
2. Plaintiff's Motion for Summary Judgment (Doc. 11) is GRANTED.
3. The Commissioner's decision is REVERSED under sentence four of 42 U.S.C. § 405(g) and the case is REMANDED to the Commissioner for an immediate award of benefits.

Dated this 16<sup>th</sup> day of December, 2012.

BY THE COURT:

  
Lawrence L. Piersol  
United District Court Judge

ATTEST:  
JOSEPH HAAS, Clerk

By Sumner Wahle Deputy